

REMARKS

Claims 30-43 and 58-69 are currently pending. By this Amendment, new claims 70-77 have been added, and claim 66 has been cancelled. Accordingly, claims 30-43, 58-65, and 67-77 are at issue.

I. Rejections Under 35 U.S.C. § 102

In paragraph 2 of the Office Action, claims 63 and 65-67 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,596,814 to Zingle et al. ("Zingle"). Applicant respectfully traverses the rejections.

Claim 63 includes, among other features, "a body having an open mouth and a through-going hole ... a closure capping the open mouth, wherein the hole is spaced from the closure." Zingle does not disclose, teach, or suggest at least this feature of claims 63.

The Examiner apparently points to the stopper (10) of Zingle as constituting the recited container body. However, the stopper (10) does not have both a through-going hole and a separate open mouth. Additionally, the stopper (10) does not have a through-going hole that is spaced from a closure on said open mouth. Accordingly, Zingle does not disclose, teach, or suggest at least this element of claim 63, and cannot anticipate claim 63 or dependent claim 65 depending therefrom.

Claim 66 has been cancelled, and claim 67 has been amended to depend from claim 69. Thus, for at least the reasons stated below with respect to claim 69, claim 67 is patentable over Zingle.

II. Rejections Under 35 U.S.C. § 103

In paragraph 5 of the Office Action, claims 30-38, 41, 43, 58, 60-62, and 69 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,522,155 to Jones ("Jones") in view of Zingle. Applicant respectfully traverses these rejections in light of the amendments made herein.

A. Claims 30-38, 41, 43, and 58

Claim 30 sets forth, among other features, "an air tight seal permanently bonded to the at least one of the closure and body, permanently closing the outer end of the hole." Neither Jones

nor Zingle disclose, teach, or suggest at least this feature of claim 30.

On p. 3 of the Office Action, the Examiner admits that Jones does not teach an “air tight seal being permanently attached”. Instead, the Examiner asserts that Zingle teaches “an air tight seal which is permanently attached to the closure” and that it would have been obvious to modify the teachings of Jones with that of Zingle to arrive at the claimed seal.

However, Zingle does not disclose an air tight seal that is permanently bonded to the closure or the body to permanently close the hole. The Office Action argues that “the small stopper 24 forms a hermetic seal after venting when in the lower/applied position.” Applicant points out that “hermetic” is not a synonym for “permanent.” Rather, “hermetic” means simply that the seal is air-tight and water-tight. Applicant notes that Zingle also refers to the seal between the large stopper (10/28) and the container as “hermetic” (Col. 5, Lns. 5-10), and this stopper (10) is clearly removable and non-permanent to allow access to the container contents. Nevertheless, even if the Examiner considers the small stopper (24) to be permanently attached to the large stopper (10), Zingle does not disclose that the small stopper is *permanently bonded* to the large stopper. As pointed out in Applicant’s previous Response, Zingle strongly implies that the plug (24) and stopper (10) are held together by an interference fit (Col. 4, Lns. 44-50), which cannot be considered “permanently bonded.” Zingle does not discuss the use of any other permanent bonding between the stoppers (10, 24). Accordingly, Zingle does not disclose, teach, or suggest, “an air tight seal permanently bonded to the at least one of the closure and body, permanently closing the outer end of the hole.” Thus, the cited references do not disclose at least the above feature of claim 30, and no *prima facie* case of obviousness has been established with respect to claim 30.

Claims 31-38, 41, 43, and 58 depend from claim 30 and include all the features thereof. Thus, for the same reasons as claim 30, the proposed combination of Jones and Zingle cannot arrive at claims 31-38, 41, 43, and 58.

B. Claims 60-62

Claim 60 sets forth, among other features, “an air-impermeable sealing material irremovably contained within the hole to provide an air-tight seal over the air permeable membrane.” Neither Jones nor Zingle disclose, teach, or suggest at least this feature of claim 60.

As described above, Zingle does not disclose a seal permanently closing the hole (16) in

the stopper. Similarly, the cited references, alone or in combination, do not disclose “an air-impermeable sealing material irremovably contained within the hole to provide an air-tight seal over the air permeable membrane.” As stated above with respect to claim 30, Zingle’s reference to the use of an “hermetic” seal between the small stopper (24) and the large stopper (10) does not equate to an irremovable connection between these components. Rather, Zingle strongly implies that the connection between the stoppers (10, 24) is an interference fit connection, and an interference fit is generally removable with application of sufficient force. Applicant particularly points to the discussion in Zingle of the hardness of the small stopper (24) as being important for sealing (P. 4, Lns. 49-51). If an irremovable connection were used in Zingle, the hardness of the stopper would likely not affect the sealing characteristics. For these reasons, Zingle does not disclose “an air-impermeable sealing material irremovably contained within the hole to provide an air-tight seal over the air permeable membrane.” Accordingly, the cited references do not disclose at least the above feature of claim 60, and no *prima facie* case of obviousness has been established with respect to claim 60.

Claims 61 and 62 depend from claim 60 and include all the features thereof. Thus, for the same reasons stated above with respect to claim 60, the proposed combination of Jones and Zingle cannot arrive at claims 61 and 62.

C. Claim 69

Claim 69 includes, among other features, “a body having an open mouth and a through-going hole opening at inner and outer ends thereof into respective inner and outer surfaces of the body.” Neither Jones nor Zingle disclose, teach, or suggest at least this feature of claim 69.

As stated above, Zingle does not disclose, teach, or suggest a container body that has **both** an open mouth **and** a separate through-going hole. Jones also does not disclose a container containing this feature. Applicant points out that the Examiner never identifies any disclosure of this feature anywhere in the cited references. Thus, the cited references do not disclose, teach, or suggest at least this feature of claim 69, and no *prima facie* case of obviousness has been established with respect to claim 69.

III. New Claims

New claims 70-77 have been added to the present Application. Applicant respectfully submits that claims 70-77 are patentable over the cited references, for at least the reasons briefly summarized below.

New dependent claims 70 and 71 depend from claims 69 and 60, respectively, and contain all the features thereof. Thus, for the same reasons stated above with respect to claims 60 and 69, new claims 70 and 71 are patentable over the cited references.

New independent claims 72-74 represent dependent former dependent claims 39, 40, 42, and 59 rewritten in independent form. Applicant notes that claims 39 and 40 have been combined into new claim 72. The Examiner has indicated that claims 39, 40, 42, and 59 would be allowable if rewritten in independent form. Thus, Applicant submits that claims 72-74 are allowable.

New dependent claims 75-77 depend indirectly from claim 30, and are patentable for at least the reasons stated above with respect to claim 30. Additionally, claims 75-77 recite that each respective seal "completely covers the hole to close the outer end of the hole." The Examiner points to the disclosure of adhesive bonding between the stopper and the membrane in Zingle as disclosing the dryable coating, semi-transparent adhesive, and composition which solidifies upon exposure to actinic radiation. However, at most, Zingle may only be considered to disclose the use of adhesives as a bonding between two components, and not to cover or fill a hole. Thus, for at least this additional reason, claims 75-77 are patentable over the cited references.

IV. Allowable Subject Matter

The Examiner indicated that claims 39, 40, 42, 59, 64, and 68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Applicants thank the Examiner for indication of allowable subject matter, and have rewritten claims 39, 40, 42, and 59 in independent form, as noted above.

CONCLUSION

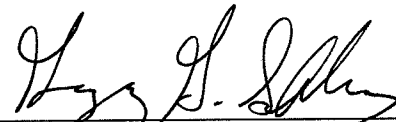
In view of the foregoing, Applicant respectfully requests reconsideration of the Examiner's rejections and objections, and allowance of claims 30-43, 58-65, and 67-69 in the present Application. Applicant also respectfully requests examination and allowance of new claims 70-77. Applicant submits that the Application is in condition for allowance and respectfully requests an early notice of the same.

Please charge all fees in connection with this communication to Deposit Account No. 19-0733.

Respectfully submitted,

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By: _____



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